IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2668 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

CALICO POLYESTER FIBRE KARMACHARI MANDAL
Versus
MANAGER CALICO POLYESTER FIBRE DIVN

Appearance:
1. Special Civil Application No. 2668 of 1988
PARTY-IN-PERSON for Petitioner No. 1
..... for Petitioner No. 2
..... for Respondent No. 1
Mr. Manish K.Dagli, A.G.P. for Respondent No. 2

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 20/06/2002

ORAL JUDGEMENT

What is challenged in this petition, which is filed under Articles 226 & 227 of the Constitution, is

validity of order dated May 17, 1988 passed by the Deputy Labour Commissioner and specified authority, Vadodara, granting permission to the respondent no.1 under section 25-M of the Industrial Disputes Act, 1947, to lay off 614 employees for a period of five months from May 20, 1988 to October 19, 1988, for a period of 12 days in a month.

2. This is an old petition and was instituted in the year 1988. By this time, it has been notified for final hearing on three occasions, but the party-in-person has not remained present to press the petition. Instead of dismissing the petition for default, I have thought it fit to hear Mr. Manish K.Dagli, learned Assistant Government Pleader and dispose of the matter on merits.

3. The respondent no.1 is a Company and engaged in the business of manufacturing and selling Polyester Staple Fibre. Number of other Units had entered the market and, therefore, demand of Polyester Staple Fibre manufactured by the respondent no.1-Company had gone down considerably. The Polyester Staple Fibre is a raw material for blended fabric like shirting, sarees, suitings etc. and several textile units were required to be closed down because of competition from the small units. The respondent no.1-Company had been working for less than 50% capacity and was required to be closed down from time to time due to huge accumulation of finished stock. This had resulted into financial crisis. Under the circumstances, the respondent no.1 made an application dated March 1, 1988 to the specified authority seeking permission to lay off its employees. There are two Employees' Unions operating in the respondent no.1-Company and both the Unions were served with copies of the application. After giving reasonable opportunity of being heard to the parties, the above referred to order was passed, which has given rise to the present petition.

4. The grievance made by the petitioner is that the findings recorded by the specified authority are baseless as well as perverse and, therefore, the impugned order should be set aside. It is also pleaded in the petition that the principles of natural justice have been violated and, therefore, also the order is liable to be set aside.

5. On service of notice, Mr. K.K.Maitra, who was then Factory Manager of the respondent no.1, has filed affidavit controverting the averments made in the petition. A bare perusal of the impugned order makes it evident that sufficient opportunity of hearing was afforded to the petitioner before the impugned order was passed. It is manifest from the contents of the impugned

order that necessary inquiry was made by the specified authority before the order was made and after being satisfied about the genuineness and adequacy of the reasons for lay off as well as after taking into consideration the interest of the workmen and all other relevant factors, by a reasoned order permission to lay off was accorded. Sub-section (6) of Section 25-M of the Industrial Disputes Act, 1947, inter-alia, provides that an order of the specified authority granting permission to lay off, shall, subject to the provisions of sub-section (7), be final and binding on all the parties and shall remain in force for one year from the date of such order. Sub-section (7) of the said section provides that the appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication. The record does not indicate that the petitioner had moved either the Government or the specified authority for review of the order which is impugned in the petition, or any request was made either to the appropriate Government or the specified authority to refer the matter to a Tribunal for adjudication. As observed earlier, all the relevant factors were taken into consideration before passing the impugned order and this Court, while exercising powers under Articles 226 & 227, cannot act as an appellate authority. Further, as is evident from the impugned order it was operative only for a period of one year and no interim relief having been granted by the Court in favour of the petitioner, said order has elapsed by afflux of time. Notice dated March 1, 1988 published by the respondent no.1 has made it clear that the workmen permitted to be laid off, would be paid such compensation to which they are entitled under sub-section (6) of Section 25-M read with Section 25-C of the Industrial Disputes Act,1947. The impugned order is neither unreasonable nor arbitrary and not liable to be set aside in the present proceeding. Under the circumstances, the petition must fail.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged, with no order as to costs.

(J.M.Panchal,J.)

(patel)